

DCMS consultation on the Statement of Strategic Priorities (SSP) for telecommunications, the management of radio spectrum and postal services

Citizens Advice's response to DCMS' consultation.

27 March 2019



Summary

Citizens Advice welcomes the opportunity to respond to the Government's Statement of Strategic Priorities (SSP) for the communications sector. Access to quality telecoms services at an affordable price is now essential. We increasingly rely on these services for everything from keeping in touch with friends and family to accessing government services and shopping online.

Unfortunately, consumer harm in this sector is all too common. In 2016 consumers experienced 27.6 million problems with their telecoms services, more than in any other essential market. The financial impact for individuals and the economy can be severe. Loyal mobile and broadband customers pay £4.8 million more than they need to *every day* as a result of the loyalty penalty. We therefore welcome the Government's clear statement to Ofcom that tackling the loyalty penalty and other harmful business practices must be a priority.

We also welcome the Government's commitment to work alongside Ofcom to explore consumer advocacy arrangements in the sector. In other essential markets, including energy, post, water and transport, independent statutory consumer advocates champion the interests of consumers - exposing current sources of consumer harm and pushing government, regulators and industry to address these problems.

Consumer advocates in these sectors also play a key role in representing the voice of consumers as important decisions are made about the future of the market. As the draft SSP outlines, a number of crucial decisions are being made now which will affect consumers for generations to come. Currently these debates are dominated by a strong, well-resourced industry lobby. Consumers need a strong, adequately resourced independent consumer advocate to make sure their voice is heard.

Urgent action is needed to close the telecoms consumer advocacy gap. The Statement of Strategic Priorities is a valuable opportunity for the Government to make a strong statement of its intent to do so, and set out the role it expects Ofcom to play.

We therefore recommend that the Government strengthens this section of its Statement of Strategic priorities by:

- Explicitly setting out its intention to legislate for the creation of a an independent statutory consumer advocate for telecoms at the earliest opportunity.
- Directing Ofcom to work with the Government and others to prepare for, and facilitate the creation of the statutory consumer advocate.

Our response to the 4 strategic priority areas

The Government sets out 4 strategic priority areas in its Statement of Strategic Priorities. Our detailed response to each area can be found under the relevant headings below.

1. World-class digital infrastructure

High quality telecoms connectivity is essential for work, the economy and people's quality of life. Yet UK consumers face more problems in telecoms than in any other essential service.¹

Consumer outcomes will be hugely impacted by the rollout of new technologies and major investment decisions over the next few years, such as fibre broadband, 5G and spectrum. It is vital, therefore, that the consumer voice is heard. But telecoms consumers do not have a strong voice to counterbalance intense industry lobbying, unlike consumers of other essential services. There is a significant risk that the consumer perspective will be insufficiently represented in current and future technical debates where a powerful industry lobby is able to tilt the regulatory scales in their favour.

Key investment decisions in other sectors with proper input from consumer representatives have resulted in long-term positive outcomes for consumers. In energy, for example, consumer-provider engagement activities on energy network price controls are providing companies with considerable insight into the views and priorities of consumers, resulting in significant improvements in service quality. To address this gap in telecoms, Government should set out a clear intention to legislate for the introduction of a statutory independent consumer advocate to ensure telecoms consumers

We broadly support the Government's digital connectivity ambitions as outlined in the Future Telecoms Infrastructure Review. In order for consumers to benefit from fibre alternatives in areas with multiple providers, the switching process must be simple, effective and accessible. As we see across essential service markets, vulnerable and disengaged consumers face a significant loyalty penalty due to harmful business practices, and poor switching mechanisms only exacerbate this problem. Any new fibre infrastructure investment must be accompanied by appropriate engagement and switching measures to ensure consumers see the benefits.

We recognise the Government's prioritisation of investment in infrastructure to deliver long-term positive outcomes for consumers over short-term interventions to reduce retail prices. However, we caution that the future benefits of investment should not justify inaction now against current harmful pricing practices in the broadband market. While average household spend on telecoms and TV services has fallen over the last

¹ Citizens Advice/Oxford Economics, [Counting the cost of consumer problems](#), 2016

decade in real terms,² our research into the loyalty penalty shows that vulnerable consumers pay the price - low prices for the engaged consumers are counterbalanced by high ones for loyal consumers.³ It is, therefore, welcome that the SSP recommends Ofcom take forward action to address this.

Competition should not be an end goal in and of itself. Instead, it should be seen as the mechanism through which positive consumer outcomes can be delivered. As a result, we have concerns about the Government's preferred approach of regulatory forbearance, whereby addressing competition concerns would be Ofcom's primary focus. Ensuring the interests of consumers are safeguarded as fibre markets become more competitive will be paramount, but consumer interests should not take a backseat while network investment is underway.

2. Furthering the interests of telecoms consumers

We welcome that the draft SSP recognises that the consumer experience in telecoms lags behind other sectors. From exploitative pricing practices in mobile⁴ and broadband,⁵ pushy sales tactics⁶ and excessive exit fees⁷ to the way providers treat their vulnerable customers,⁸ there is clear evidence that consumer protections and outcomes have not kept pace with the rapid innovation and technological advances that have seen telecoms become an essential service.

Addressing the mobile handset loyalty penalty

The loyalty penalty affects 1 in 3 consumers in the mobile market. Consumers with bundled contracts face an average handset loyalty penalty of £22 per month, rising to £38 per month for smartphones. We estimate that 4 million people overpaid a total of £490 million on their last mobile contract. And this hits potentially vulnerable consumers hardest - over 65s are twice as likely to have paid a loyalty penalty for over 12 months.⁹

We are pleased to see that the Government recognises the need for consumers to be moved onto fairer tariffs when the minimum term of their bundled contract ends. As we outlined in our response to Ofcom's consultation, fairer tariffs can only mean no consumer being charged for a handset they have already paid off after the end of their minimum term.¹⁰ Of Ofcom's proposals, a combination of pricing transparency and automatic handset discounting at the end of the minimum term will in effect end the loyalty penalty for people with bundled mobile phone contracts. We also welcome the

² Ofcom, [Pricing trends for communications services in the UK](#), 2018

³ Citizens Advice, [Excessive prices for disengaged consumers](#), 2018

⁴ Citizens Advice, [Reviewing bundled handsets](#), 2018

⁵ Citizens Advice, [Exploring the loyalty penalty in the broadband market](#), 2017

⁶ Citizens Advice, [Hung up on the handset](#), 2016

⁷ Citizens Advice, [Exit fees: an analysis of the cost of leaving fixed telecoms contracts](#), 2018

⁸ Citizens Advice, [Essential service markets and people with mental health problems](#), 2018

⁹ Citizens Advice, [Reviewing bundled handsets](#), 2018

¹⁰ Citizens Advice, [Response to Ofcom consultation on mobile handsets](#), 2018

commitment to implement legislative solutions if Ofcom considers its powers insufficient to take meaningful action to stop the mobile loyalty penalty.

Addressing the broadband loyalty penalty

In the broadband market, millions of consumers remain in their contracts once the minimum term has ended: Citizens Advice research found that 43% of people pay the loyalty penalty.¹¹ This rises to 6 in 10 (59%) of customers aged 65 and over. This means UK consumers are overpaying by hundreds of millions of pounds each year.¹² For broadband consumers, monthly prices rise by an average of 43% (£113) when the minimum term ends.¹³ This price rise is rarely included in advertising and it is often hard to locate on providers' websites. Consumers are often unaware of these rises: 2 in 5 (39%) broadband customers surveyed believe that long-standing customers pay the same or less than newer customers. Price rises at the end of minimum contract terms are not unique to the broadband market, but extent of this rise is particularly sharp.

This is, in effect, a systematic scam. Nobody would choose to pay these extortionate sums—companies charge these prices solely in the hope that people won't notice. And many don't. Ofcom must ensure that its review of broadband pricing practices takes into consideration the disproportionate impact on vulnerable consumers and take swift, firm action: all low income and vulnerable consumers should stop paying the loyalty penalty in this sector. A well-functioning competitive market should not rely on excessive price differentials or disengaged vulnerable customers paying a significant loyalty penalty.

Telecoms is a difficult market for consumers to navigate. Ofcom recognises that the growing complexity and availability of tariffs could lead consumers to disengage from the market entirely.¹⁴ Indeed, considering the size of the loyalty penalty, this market features a very low engagement rate (as measured by switching levels). And many consumers are unaware that they even face a penalty in broadband: 36% think that providers charge loyal customers the same or less than new customers, while of the 34% of people who have remained on their current broadband contract because they trust their provider, 3 in 4 are likely to be paying a loyalty penalty.¹⁵ We see further evidence of inertia from Ofcom's pricing trends report: 39% of dual play customers did not switch after their initial contract period expired.¹⁶

Specific remedies in the broadband sector will, as they should, be informed by Ofcom's comprehensive review of pricing practices. But these proposals should be sufficiently impactful and ambitious, not simply further demand-side remedies. We welcome the

¹¹ Citizens Advice, [Excessive prices for disengaged consumers: A super-complaint to the Competition and Markets Authority](#), 2018

¹² *ibid.*

¹³ Citizens Advice, [Exploring the loyalty penalty in the broadband market](#), 2017

¹⁴ Ofcom, [Pricing trends for communications services in the UK](#), May 2018.

¹⁵ Citizens Advice, [Excessive prices for disengaged consumers: A super-complaint to the Competition and Markets Authority](#), 2018

¹⁶ Ofcom, [Pricing trends for communications services in the UK](#), May 2018

Government's position in the SSP that Ofcom should consider the full range of potential pricing interventions, including safeguard caps to protect vulnerable consumers. Prompt action is also required - each month that passes costs loyal broadband consumers £100m.

Improving consumer switching

Switching rates in telecoms are low - a problem we see across essential service markets where disengagement from the market is common.¹⁷ In mobile, 36% of consumers with bundled handsets did not switch after the end of their minimum term. In broadband, this figure rises to 39% for dual-play customers.¹⁸ And, as we see across essential service markets, vulnerable and disengaged consumers are less likely to switch - and experience detriment as a result.

For instance, within the broadband market, consumers with mental health problems were more than twice as likely to say their main reason for staying in their contract was because switching was too difficult compared to those without mental health issues (17% and 7%). Additionally, nearly 1 in 5 (17%) of those with mental health problems that impacted their daily life said they found the process of switching broadband contracts time consuming, compared to just 9% of those who had not experienced mental health problems.¹⁹

We therefore support the Government's objective of improving consumer switching in telecoms. But many consumers will never engage with switching tools and will need additional support to switch, and in some cases protection so that they are not ripped off. As the Government recognises in its consultation, demand-side information remedies are not sufficient alone.

A properly resourced consumer advocate could play an important role in educating and supporting consumers to switch. Effective consumer advocacy requires a high level of consumer engagement, and a consumer advocate could work closely with Ofcom and other stakeholders to deliver consumer education activity.

For example, each year, Citizens Advice, in partnership with the Energy Saving Trust and the Department of Business, Energy and Industrial Strategy, runs a consumer education campaign called Big Energy Saving Week. The week focuses on raising public awareness of how to switch energy supplier or tariff to get the best deal, how to access discounts and how to make homes energy efficient. In 2018, over 100 organisations - from local Citizens Advice to housing associations to local voluntary groups - held over 450 events to help people save money on their energy bills.²⁰

¹⁷ Citizens Advice, [Excessive prices for disengaged consumers: A super-complaint to the Competition and Markets Authority](#), 2018

¹⁸ *ibid.*

¹⁹ Citizens Advice, [Response to Ofcom's consultation on end-of-contract and annual best tariff notifications, and review of pricing practices in fixed broadband](#), 2019

²⁰ Citizens Advice, [Big Energy Saving Week](#), 2018

Supporting vulnerable consumers

Vulnerable consumers are more likely to experience detriment - including the loyalty penalty - across essential service markets. And our advisers consider telecoms providers as lagging behind other sectors when it comes to how they support vulnerable consumers.²¹ And our cross-market research into problems that people with mental health problems face when engaging with their service providers found that the most significant issues related to telecoms.²² We welcome the draft SSP's recommendation that Ofcom work to identify where learning from other sectors and regulators could benefit vulnerable telecoms consumers, including opportunities for non-financial data-sharing.

The cognitive and behavioural impact of poor mental health can lead people to struggle when choosing services, paying for them, and resolving problems. Combined with inadequate support from providers, people with mental health problems can end up paying £1,100 - £1,550 each year as a result.²³ People should not be penalised if a health problem means they are unable to understand, manage or cope with 'everyday', essential tasks. And firm practices should never worsen a customer's health.

To help reduce these costs, we think regulators should agree minimum standards of support for people with mental health problems - and welcome that the SSP recognises the value these could bring to consumers. Providers should ensure all their services are designed so people with mental health problems are just as able to benefit from them as those without. But some people will still benefit from extra support. Pockets of excellent practice already exist across sectors - but these are not a substitute for a coherent, cross-sector approach.

Citizens Advice is currently undertaking research into practical support options that could help improve the experience consumers with mental health problems have with their telecoms providers. We are currently engaging with Ofcom and the UK Regulators Network (UKRN) as part of this work and look forward to continuing to work with providers, individual regulators and UKRN on this important priority.

Consumer advocacy

The case for strengthening consumer advocacy in the telecoms sector is clear. Telecoms has rapidly become an essential service: almost 8 in 10 (78%) of us now own a smartphone compared with just 27% in 2011.²⁴ And current consumer advocacy arrangements do not reflect telecoms' status as an essential service in the modern world. And consumers are paying the price. They encounter more problems in these markets than in any other essential market, and their voice is not heard as important decisions are made which will affect them today and for generations to come.

²¹ Internal Citizens Advice survey of local advisers, 2018

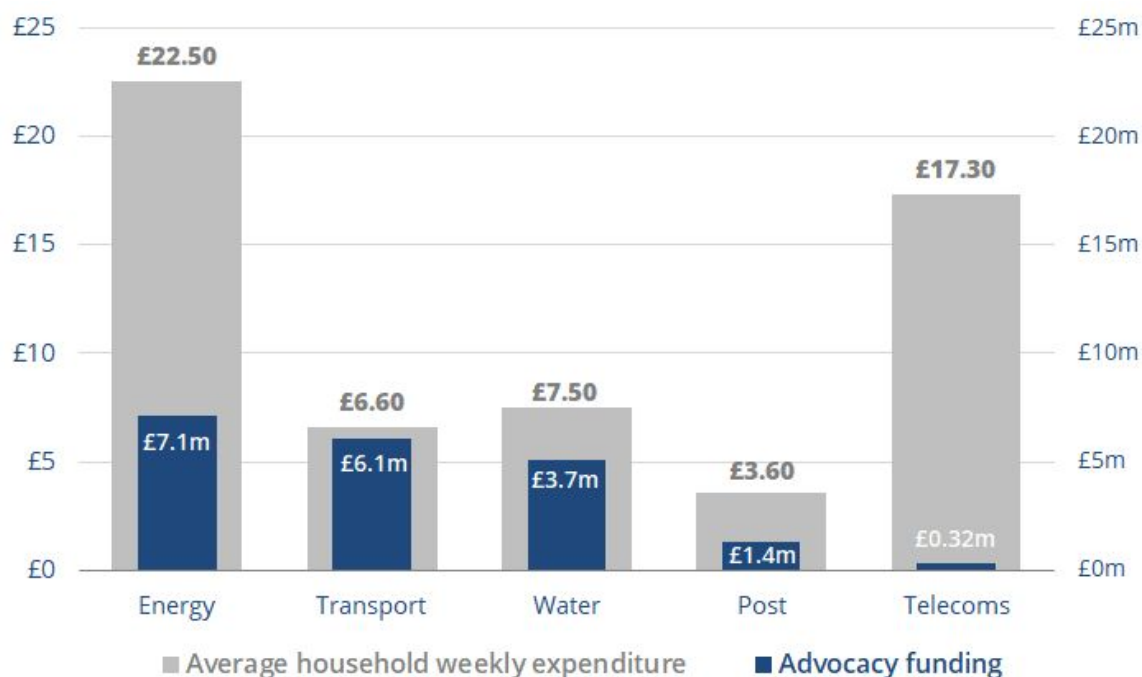
²² Citizens Advice/BritainThinks, [Essential service markets & people with mental health problems](#), 2018

²³ Citizens Advice, [The mental health premium](#), 2019

²⁴ Ofcom, [Nations and Regions Technology Tracker H1](#), 2018

Funding for consumer advocacy in the telecoms sector also lags far behind that found in other essential markets, and is insufficient to counterbalance the voice of industry or do more than scratch the surface of consumer harm.

Fig.1: Telecoms advocacy receives the least funding despite high weekly household spend.²⁵



Advocacy is a structural feature of a well-functioning essential service market.

Consumer representation in key decisions on infrastructure leads to positive outcomes for consumers. We see this in the energy market, where consumer-provider engagement activities on energy network price controls are providing companies with considerable insight into the views and priorities of consumers, resulting in significant improvements in service quality.

An independent advocate can also strengthen the regulator and help them to take more decisive action by providing additional evidence or balancing out industry opinions. An independent advocate would be a dedicated consumer champion, balancing out the voice of industry in important discussions about telecoms policy and infrastructure. Advocates in other markets have fed expertise on consumer issues, and

²⁵ Figures for weekly spend from: ONS, Family spending in the UK: April 2017 to March 2018, [Components of household expenditure: Table A1](#); Citizens Advice, [Trends in the Postal Services Market](#), May 2018. Figures for Transport, Water and Telecoms advocacy funding from: Transport Focus, [Annual Report and Accounts 2017-18](#); CCWater, [Annual Report and Accounts 2017-18](#); Communications Consumer Panel, [Annual Report 2017-18](#). Figures for Energy and and Post advocacy funding are from 2017-18 Citizens Advice grant agreement, including, an estimate (based on 2016-17 figures) for the costs of Citizens Advice Scotland to ensure geographic comparability. Includes cost of advocacy, Extra Help Unit, and Consumer Service. Energy figure includes Big Energy Saving Week. **We note that Ofcom has increased funding for the CCP for 2019/20 by 50% from its 2018/19 level, bringing the provisional budget for 2019/20 to c.£480k.

insights from case-handling into industry policy, working to develop best practice and better support for consumers.

A strong consumer voice is needed now more than ever, given significant upcoming digital infrastructure investment. Telecoms is a unique essential service in that the market is evolving rapidly, both in terms of technology and the way consumers use it. There are debates underway today that will shape the future of the UK's digital economy for decades to come. Issues crucial to the long-term development of our digital infrastructure include:

- The rollout of full-fibre broadband
- Implementation of the Broadband Universal Service Obligation
- Separation of BT and Openreach
- Wholesale broadband pricing
- Retiring the public switched telephone network
- Mobile spectrum allocation

Consumers and small businesses should not be without a dedicated champion.

Experience from other sectors shows that a well-resourced, independent consumer advocate can:

- Shine a spotlight on areas of consumer detriment and represent consumers in decisions that affect the services they receive
- Provide front-line advice and case-handling for vulnerable consumers
- Empower people through consumer education
- Support industry in developing policies that deliver positive outcomes for consumers.

In the Modernising Consumer Markets Green Paper, the Government recognised current consumer advocacy arrangements in the telecoms sector are out of kilter with those in other essential markets and asked for views on whether to review these arrangements. The Government's commitment in the draft SSP to working with Ofcom to explore consumer advocacy arrangements in the sector is a further welcome indication of its recognition of the need for reform.

However, consumers need a strong consumer advocate *now*. The SSP is a valuable opportunity for the Government to make a strong statement of its intent to act, and set out the role it expects Ofcom to play.

We therefore recommend that the Government strengthens this section of its Statement of Strategic priorities by:

- Explicitly setting out its intention to legislate for the creation of a strong, independent statutory consumer advocate for telecoms at the earliest opportunity.
- Directing Ofcom to work with the Government and others to prepare for, and facilitate the creation of the statutory consumer advocate.

3. Secure and resilient telecoms infrastructure

It is important that consumers are able to safely, securely and consistently access essential telecoms services. It is therefore right that the Government and Ofcom undertake appropriate work to ensure the UK's critical telecoms infrastructure is secure and resilient.

4. Postal services

As the statutory consumer advocate for postal services, Citizens Advice recognises the value of the universal postal service and the overall market trends set out in the SPP. Changing consumer behaviours and market dynamics present both challenges and opportunities to the quality of outcomes experienced by postal consumers in the UK. As the universal service provider, it is important that Royal Mail plans and invests responsibly in order to sustain delivery of the universal postal service, and we support Government's priorities in this area.

It is essential that the postal sector delivers good outcomes for consumers. The parcels market has grown by 50% since 2010 but despite strong competition, consumer experience has not kept pace with this growth. We see significant problems with quality of service and access to effective redress mechanisms: of 69% of consumers have had a problem with delivery in the last year - yet 57% didn't take action as a result.²⁶

However, a focus on "delivering good outcomes for consumers" should not be limited to quality of service targets. It is essential that universal postal services are truly available and affordable to all consumers, especially those on the lowest incomes. Research last year by Citizens Advice found that the mail redirection service - a USO product that Royal Mail enjoys a monopoly on - was priced out of reach for many low-income consumers.²⁷ In particular, the company has used its monopoly on the mail redirection service to increase prices on the cheapest service available by 74% since 2012, when a 3-month redirection cost £19.50.

As the designated universal service provider, Ofcom requires Royal Mail to provide the redirection service "at affordable prices",²⁸ but the regulator did not include redirection in its last review of the affordability of postal services in 2013.²⁹ We have significant concerns that the current pricing structure for the redirections service means this universal service is out of reach for many low-income and vulnerable consumers.³⁰ People have to pay the whole price upfront, which can be a step too far for stretched

²⁶ Citizens Advice, [Trends in the postal services market](#), 2018

²⁷ Citizens Advice, [A new redirection?](#), 2018

²⁸ Ofcom, [Designated universal service condition 1](#), DUSP 1.7.1 and DUSP 1.7.1(a)

²⁹ Ofcom, [The affordability of universal postal services](#), 2013

³⁰ Citizens Advice, [Royal Mail has made redirection fairer . . . but they shouldn't have redirected the cost](#), 2019

household budgets. For households with the lowest disposable income, the cheapest 3-month redirection service costs about the same as their entire weekly food shop.³¹

We know people are already put off by the high prices—especially those who say they find it difficult to make ends meet. More than half (55%) would either not use redirection at all or take it out for less time than they need due to the cost. Redirection must be affordable. Our evidence shows people can face significant harm when they don't get their mail—such as fraud or missing bills or medical appointments.³²

Putting in place a limited concessions scheme—as Royal Mail has done—is a welcome first step. But it doesn't solve the underlying problem, which is that people still need to pay a high upfront cost. Letting people pay in monthly instalments would slash the upfront payment for a 3-month redirection to £11.33—or to £5.58 for the best-value 12-month option. As the total cost would stay the same, this would not reduce Royal Mail's overall revenue. Instead, it could actually increase use of the service.

We recognise the importance of Royal Mail being able to sustainably deliver the universal postal service. But this should not come at the expense of consumer outcomes where there is no alternative available through competition.

Government should ensure that its Statement of Strategic Priorities for Ofcom recognises the need for universal and essential postal services provided through Royal Mail to be truly affordable - especially for consumers on the lowest incomes. We are concerned that current regulatory requirements for mail redirection to be 'at affordable prices' may not be being met through the current pricing structure, and consider it essential and proportionate that Royal Mail implement an option for consumers to spread out the cost of redirection in monthly payments.

³¹ ONS, [Detailed household expenditure by equivalised disposable income decile group FY17/18](#), 2019. A 3-month redirection for 1 person costs £33.99, payable upfront. Households in the lowest disposable income decile spend £36.10 on food each week.

³² Citizens Advice, [A new redirection?](#), 2018